

### **REMARKS**

This responds to the Office Action dated on August 30, 2007.

Claims 1 and 11 are amended. Claims 1-18 are now pending in this application.

#### **In the Specification**

The specification has been amended to update the priority information. No new matter has been added.

#### **§103 Rejection of the Claims**

Claims 1-7 and 11-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Snell (U.S. Patent No. 5,759,199) in view of Thompson (U.S. Patent No. 4,556,063). Claims 8 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Snell (U.S. Patent No. 5,759,199) in view of Thompson (U.S. Patent No. 4,556,063) and further in view of Degonde (U.S. Patent No. 4,137,908). Claims 9, 10 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Snell (U.S. Patent No. 5,759,199, hereinafter Snell '199) in view of Thompson (U.S. Patent No. 4,556,063), further in view of Snell (U.S. Patent No. 5,792,204, hereinafter Snell '204). The rejections are traversed and reconsideration is respectfully requested.

As amended herein, independent claims 1 and 11 recite a system and method in which an implantable medical device has a constant current source connected to two electrodes adapted for internal disposition and contact with body fluids, and the current source is driven by an oscillator for producing a current signal modulated with encoded data between the two electrodes to cause corresponding modulated potential signals detectable at a skin surface. The cited Snell '199 and Thompson reference appear to only disclose a conventional telemetry systems for implantable medical devices. The Thompson reference describes circuitry for driving an antenna 16 with a tank circuit 14 to in order to radiate an RF signal to a remote receiver. Neither of the references, either alone or in combination, describe a constant current source connected to two electrodes adapted for internal disposition and contact with body fluids. The constant current sources described in Thompson are only for energizing the tank circuit 14 and are not analogous to the constant current sources recited in claims 1 and 11. Applicant thus believes that the combination

of teachings in the Thompson and Snell do not result in the system and method recited by claims 1 and 11. Additionally, the cited references provide no suggestion for modifying the teachings contained therein to arrive at the presently claimed subject matter and, by only describing conventional telemetry systems, actually teach away from it.

With regard to the rejections of claims 8 and 18, the Degonde reference appears to describe performing an impedance measurement related to a physiological variable by injecting current between two electrodes from a constant current source. No teaching or suggestion appears in either Degonde or the other references of record, however, for using the same constant current source for transmitting potential signals modulated with encoded data to the external data logging device.

For the reasons given above, Applicant believes that the recitations of claims 1, 8, 11, and 18 are not rendered obvious by the cited references. Applicant further submits that the recitations of the remaining dependent claims are neither taught nor suggested by the prior art of record in the context of their combination with either claim 1 or 11. Withdrawal of the rejections is respectfully requested.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 30 day of November 2007.

Nicole Han

Name

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Signature